



METROPOLITAN TRANSPORTATION COMMISSION
SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

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Executive Director

ANDREW B. FREMIER
Deputy Executive Director

May 18, 2016

REQUEST FOR PROPOSAL (RFP)
IN-VEHICLE MAINTENANCE FOR VOICE & DATA
COMMUNICATION EQUIPMENT

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE) invites your firm to submit a proposal to provide maintenance for voice and data communication equipment for the Bay Area Freeway Service Patrol. Maintenance will consist of installation and removal and swapping and/or repairing of Kenwood radios, WiFi-GPS Devices and other identified fixed equipment.

The Request for Proposal (RFP) documents for this project are available for download on the MTC SAFE website at <http://procurements.mtc.ca.gov/>. Proposers are responsible for checking the website for any Addenda to this RFP. Responses should be submitted in accordance with the instructions set forth in the RFP.

Interested firms must submit an original and four (4) copies, as well as one electronic PDF version, of their proposal by **4:00 p.m. on Friday, June 10, 2016** in accordance with the instructions contained in the RFP. Other key RFP Dates are listed in Section V, Contractor Selection Timetable of the RFP.

MTC SAFE Point of Contact
Robert Rich, Project Manager
MTC SAFE
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105
E-mail: rrich@mtc.ca.gov
(415) 778-6621

Thank you for your interest.

Sincerely,
DocuSigned by:
Steve Heminger
~~Steve Heminger~~
Executive Director

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I. MTC SAFE AND PROJECT DESCRIPTION

A. *Description of MTC SAFE*

MTC SAFE is a regional public agency created in 1988 pursuant to California Streets and Highways Code section 2550 *et seq.* to install, maintain and operate a motorist aid call box system in the nine San Francisco Bay Area counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

B. *Project Description*

The Bay Area Freeway Service Patrol program is a joint project of the MTC SAFE, the California Highway Patrol (CHP) and the California Department of Transportation (Caltrans). The service is provided by private tow truck companies, under contract to MTC SAFE.

The fleet of over 70 vehicles patrol over 450 miles of Bay Area freeways. The FSP tow operators look for stranded motorists and offer help by changing a flat tire, “jump starting” a dead battery, refilling a radiator or providing a gallon of fuel. If the automobile still won’t start, it is towed off the freeway to the nearest CHP-identified locations.

In order to manage and dispatch these vehicles in the most efficient and cost-effective manner, FSP has developed a communications and data management system that has become a critical component to the current and future operations of this program. The system is used to:

- Dispatch service from the CHP dispatch center in Vallejo;
- Record critical operating data;
- Confirm tow contract billing;
- Monitor truck, driver and contractor performance; and
- Evaluate overall program.

The FSP dispatchers that monitor the operations of the tow vehicles are located within the CHP’s Golden Gate Communication Center (GGCC), on Benicia Road in Vallejo, California. The dispatchers communicate with the tow operators using Kenwood radios and WiFi-GPS Devices. WiFi-GPS Devices are used by the tow operators to communicate with the dispatchers using data communication messages or status codes. WiFi-GPS Devices are equipped with global positioning systems that allow the dispatchers to track vehicle location using data from an automatic vehicle location (AVL) system. Various codes are used by the tow operators to inform the dispatchers of their status.

II. PROPOSER MINIMUM QUALIFICATIONS

Proposals must demonstrate that the firm or team submitting the proposal (“Proposer”) meets the following Minimum Qualifications to be eligible for consideration for this project.

- The Proposer must have a minimum of three (3) years experience installing and maintaining electronic devices in automobiles or trucks. Experience working with communications devices in other types of vehicles, machines or electrical systems may be substituted for the required experience if the Contractor's proposal clearly demonstrates how this work prepares them for the tasks described in *Appendix A, Scope of Work*.

III. SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET

A. Scope of Work

The scope of work for the project is provided in *Appendix A, Scope of Work*. The firm selected to enter into a contract ("Contractor") will be expected to perform all work and analysis necessary to complete the scope of work.

B. Period of Performance

MTC SAFE expects the work to commence on or about July 30, 2016, and to be completed no later than June 30, 2019. At MTC SAFE's sole option, the contract may be extended for three (3) year additional years for work contemplated by *Appendix A, Scope of Work*, in a length of time at MTC SAFE's discretion.

C. Budget

MTC SAFE has budgeted approximately \$277,500 dollars for the three-year contract, which includes approximately \$172,500 for the installation and removal of equipment, \$82,500 for maintenance expenses and \$22,500 in task order work. Additional funding may be available in future Fiscal Years subject to approval of future MTC SAFE budgets.

IV. REQUESTS FOR CLARIFICATION OR EXCEPTIONS

Any addenda will be posted on MTC SAFE's website. All Proposers are responsible for checking the website for any addenda to the bid documents.

Any requests for clarification of or exceptions to RFP requirements must be received by MTC SAFE no later than 4:00 p.m. on June 1, 2016, to guarantee a response or consideration. MTC SAFE reserves the right to reject any proposal that contains unauthorized conditions or exceptions.

V. CONTRACTOR SELECTION TIMETABLE

4:00 p.m., on Wednesday, June 1, 2016	Closing date/time for receipt of requests for modifications/exceptions
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No later than three (3) business days prior to the date proposals are due.	Deadline for protesting RFP provisions
4:00 p.m., on Friday, June 10, 2016*	Closing date/time for receipt of proposals
Week of June 13, 2016*	Interviews/Discussions (if held)
June 22, 2016*	Date for receipt of Best and Final Offers
Friday, July 8, 2016*	MTC Operations Committee Approval

**Interview, award and approval dates are approximate and are subject to change before or after the closing date of the RFP.*

VI. SUBMITTAL OF PROPOSALS

- Interested firms must submit an original and four (4) copies, as well as one electronic PDF version, of their proposal by **4:00 p.m. on June 10, 2016. Submission of an electronic copy of the proposal without hard copies will not satisfy the submission requirement. No proposals submitted solely by email and no faxed proposals will be considered.**
- Proposals are to be addressed as follows:

FSP In-Vehicle Equipment Maintenance
Attention: Robert Rich
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105
E-mail: rrich@mtc.ca.gov
- Proposer's name and return address must also appear on the envelope.
- Proposals will be received only at the address shown above and **no later than the date and time indicated**. MTC SAFE is not responsible for deliveries delayed for any reason. Any proposals received after said date and time or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened.
- All proposals, whether delivered by an employee of the Proposer, U.S. Postal Service, courier or package delivery service, must be received and time stamped at the stated address **prior to or no later than the time designated**. The timestamp located on the 7th floor at the receptionist desk shall be considered the official timepiece for the purpose of establishing the time of receipt of proposals
- Proposer agrees and acknowledges all RFP specifications, terms and conditions and indicates ability to perform by submission of a proposal.

7. A signed proposal submitted to MTC SAFE in response to this RFP shall constitute a binding offer from Proposer to contract with MTC SAFE according to the terms of the proposal for a period of ninety (90) days after the proposals are due to MTC SAFE.
8. A proposal may be withdrawn at any time before the date and time when proposals are due by submitting a written request for its withdrawal to the MTC SAFE Project Manager.
9. This RFP does not commit MTC SAFE to award a contract or to pay any costs incurred by any Proposer in the preparation of a proposal in response to this RFP.
10. Only one proposal will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response.
11. MTC SAFE reserves the right to accept or reject all proposals submitted, waive minor irregularities, request additional information, or revisions to offers, and negotiate with any or all Proposers.
12. MTC SAFE reserves the right in its sole discretion not to enter into any contract as a result of this RFP.
13. If the selected Proposer fails to enter into a contract with MTC SAFE in a timely manner as determined by MTC SAFE, in accordance with the terms and conditions of this RFP, MTC SAFE reserves the right to reject the proposal and enter into a contract with the next highest scoring Proposer.
14. Online Vendor Registration is required to be eligible for contract award. Proposers should visit <http://procurements.mtc.ca.gov/Vendors/vendor-information.html> to register in the MTC SAFE Vendor Database.
15. The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of Central Contractor Registration / Federal Agency Registration (CCR/FedReg), Online Representations and Certifications Application (ORCA), and Excluded Parties List System (EPLS). Firms submitting proposals for contracts with federal funds must register on the SAM website at <https://www.sam.gov/portal/SAM/##11> prior to proposal submission.

VII. FORM OF PROPOSAL

Proposals must be signed in ink and include a statement that the person or persons signing the proposal is/are authorized to authorize and submit the proposal on behalf of the Proposer. Page limits, where specified, are for single-sided print. Proposers are encouraged to print double-sided copies to save paper.

Proposal content and completeness are most important. Clarity is essential and will be considered in assessing the Proposer's capabilities.

Proposers must provide the information listed below. Any material deviation from these requirements may be cause for rejection of the proposal, as determined in MTC SAFE's sole discretion.

Each proposal must include the following:

A. Transmittal Letter

Proposals must include a transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm and containing the name and telephone number of a contact person, if different from the signatory. Indicate whether there are any conflicts of interest, actual or apparent, that would limit the Proposer's ability to provide the requested services and describe the plan for mitigating such conflicts. Acknowledge the receipt of this RFP and any Addendum to the RFP. Indicate that the proposal is a firm offer to enter into a contract to perform work related to this RFP for a period of 90 days from the due date for proposals.

B. Title Page

Proposals must include a title page that includes the RFP subject, the name of the Proposer's firm, local address, telephone number, name of contact person, contact person's email address, and the date.

C. Table of Contents

Proposals must include a table of contents that includes a clear identification of the material by section and page number.

D. Approach

A brief discussion that illustrates the Contractor's approach to be taken with respect to performing each of the tasks contained in *Appendix A, Scope of Work*.

E. Qualifications and References

1. A detailed statement of the Contractor's individual and team qualifications and experience relevant to providing voice and data communications and services described in *Appendix A, Scope of Work*. If Subcontractors are involved in the proposal, their experience and qualifications should also be addressed.
2. Submit a completed *Appendix C, Contractor's Reference Form*. Provide three (3) references of clients other than MTC SAFE for whom the Contractor has done similar or related work in excess of \$50,000.

F. Cost Proposal

1. A price proposal specifying all costs to MTC SAFE for the required services, including but not limited to: equipment fees, routine maintenance charges, storage fees, installation and removal,

any other labor, material and equipment charges, and all applicable surcharges including taxes, overhead and profit.

Submit proposal calculation worksheet attached to this RFP as *Appendix B, Proposal Calculation Worksheet*. **Proposers are required to complete and submit this worksheet as their cost proposal.**

G. California Levine Act Statement

Submit a signed Levine Act statement (*Appendix C*).

H. Insurance Provisions

Submit a signed acknowledgement that the Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix D-1, Insurance Requirements*, within ten (10) days of MTC SAFE's notice to firm that it is the successful Proposer.

(See Section IX.B of the RFP for how to request exceptions to the minimum insurance requirements.)

I. Taxpayer Identification Number and Certification

Submit a W-9, Request for Taxpayer Identification Number and Certification (containing original signature) available at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

VIII. PROPOSAL EVALUATION

A. *Verification of Minimum Qualifications*

The MTC SAFE Project Manager will review proposals to ensure that each proposal meets the Minimum Qualifications set out in Section II, Proposer Minimum Qualifications of this RFP. Proposers failing to meet the Minimum Qualifications will not be considered.

B. *Review for General Responsiveness*

The MTC SAFE Project Manager, in consultation with the MTC SAFE's Office of General Counsel, will conduct an initial review of the proposals for general responsiveness and inclusion of the items requested in Section VII, Form of Proposal. Proposers failing to meet the Minimum Qualifications listed in this RFP will not be considered responsive. Also, any proposal that does not include enough information to permit the evaluators to rate the proposal in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. A proposal that fails to include one or more items requested in Section VII, Form of Proposal may be considered responsive, if evaluation in every criterion is possible. MTC SAFE reserves the right to request additional information from responsive Proposers prior to evaluation.

C. Evaluation Panel and Evaluation Criteria

Responsive proposals will then be evaluated by an evaluation panel of MTC SAFE and possibly other staff from the partner agencies of the Freeway Service Patrol (FSP) program. The evaluation of the proposals shall be within the sole judgment and discretion of the evaluation panel.

All contact during the evaluation phase shall be through the MTC SAFE Project Manager only. Proposers shall neither contact nor lobby any evaluation panel members during the evaluation process. Any attempt by Proposer to contact and/or influence members of the evaluation panel may result in disqualification of Proposer.

Responsive proposals shall be evaluated on the basis of the following evaluation factors, with their relative importance indicated by percentages:

1. Qualifications and Experience, individual and team expertise and experience relevant to work specified in *Appendix A Scope of Work*. (30%)
2. Cost effectiveness, including reasonableness of the prices proposed for accomplishing the work specified in *Appendix A Scope of Work* and the hourly rates of personnel. (20%)
3. References (20%)
4. Approach - proposer's approach to conducting and completing tasks and effectively managing and coordinating all project resources. (15%)
5. Cost, each Proposers cost proposal will be weighted relative to the lowest cost proposal submitted in response to this RFP as follows (15%):

Example:

Proposer	Proposed Cost	Calculation of Points	Points Assigned
Proposer A	\$250,000	Full 10 percentage points	10
Proposer B	\$269,000	\$250K divided by Proposer B cost, multiplied by 10	9.3
Proposer C	\$275,000	\$250K divided by Proposer C cost, multiplied by 10	9.1

D. Proposer Discussions

Following the initial evaluation, the evaluation panel may elect to recommend award to a particular Proposer (with or without interviews), or to enter into discussions with a "short list" of Proposers, consisting of those Proposers reasonably likely, in the opinion of the panel, to be awarded the contract.

The purpose of discussions with a Proposer on the "short list" will be to identify to that Proposer's specific deficiencies and weaknesses in its proposal and to provide the Proposer with the opportunity to consider possible approaches to alleviating or eliminating them. These deficiencies or weaknesses may

include such things as technical issues, management approach, cost, or team composition. Discussions may take place through written correspondence and/or during face-to-face interviews. The Proposer's project manager, as well as other key personnel identified by the evaluation panel, will be expected to participate in any discussions. A Proposer on the "short list" invited to participate in discussions will be expected to provide a presentation limited to 20 minutes consisting of an overview of its approach to the Project.

E. Request for Best and Final Offer

Following discussions, if held, Proposers on the "short list" will be given the opportunity to revise their written proposals to address the concerns raised during discussions through issuance by MTC SAFE of a Request for Best and Final Offer (BAFO). Following receipt of the BAFOs, the evaluation panel will evaluate the BAFOs against the evaluation criteria.

MTC SAFE reserves the right not to convene oral interviews or discussions, and to make an award on the basis of initial proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint. References may be contacted at any point in the evaluation process.

F. Recommendation for Contract Award

The panel will recommend a Proposer to the MTC SAFE Executive Director, based on their evaluation of the written proposals or BAFOs and oral interviews or discussions (if held). The Executive Director will review the recommendation and, if he agrees, he will approve the award or forward the recommendation to the MTC Operations Committee for approval (if required).

IX. GENERAL CONDITIONS

A. Award

Any award made will be to the Proposer whose proposal is most advantageous to MTC SAFE based on the evaluation criteria defined in Section VIII. If the selected firm fails to enter into a contract with MTC SAFE in a timely manner as determined by MTC SAFE, in accordance with the terms and conditions of this RFP, MTC SAFE reserves the right to reject the proposal of the selected firm and enter into a contract with the next highest scoring firm.

B. Contract Arrangements

MTC SAFE Standard Contractor Contract is attached as *Appendix D*. If a Proposer wishes to propose a change to any standard MTC SAFE contract provision, the provision and the proposed alternative language must be submitted prior to the closing date for receipt of requests for clarifications/exceptions. If no such change is requested, the Proposer will be deemed to accept MTC SAFE's standard contract provisions, unless such language is protested in accordance with Section C below.

The selected Contractor will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1, Insurance Requirements*. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix D-1*, within ten (10) business days of MTC SAFE's notice that it is the successful Proposer. Requests to change MTC SAFE's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions. MTC SAFE will review the requests and issue an addendum if material changes requested by a prospective Proposer are acceptable. Objections to MTC SAFE determinations on requests to change insurance requirements pursuant to the protest provisions of this RFP must be brought to MTC SAFE's attention no later than the deadline for protesting RFP provisions or compliance with all material insurance requirements will be assumed.

The contract resulting from this RFP will be a combination of firm fixed price, with payment based the unit prices in Appendix B, *Proposal Calculation Worksheet*, on MTC SAFE's receiving of satisfactory deliverables and task order based for work assignments under Task 3.

C. Selection Disputes

A Proposer may object to a provision of the RFP on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular Proposer on the grounds that MTC SAFE procedures, the provisions of the RFP or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than 4:00 p.m. on the third business day prior to the date proposals are due, for objections to RFP provisions; or
2. No later than 4:00 p.m. on the third business day after the date the firm is notified that it did not meet the minimum qualifications or was found to be non-responsive; or
3. No later than 4:00 p.m. on the third business day after the date on which the firm is notified that it was not selected, or if applicable the date the MTC SAFE Executive Director authorizes award, whichever is later, for objections to Proposer selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the MTC SAFE Executive Director authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the MTC **SAFE** review officer to recommend a resolution to the MTC SAFE Section Director.

The MTC SAFE Section Director responsible for the procurement will respond to the protest in writing, based on the recommendation of a staff review officer. Should a Proposer wish to appeal the decision of the MTC SAFE Section Director, it may file a written appeal with the MTC SAFE Executive Director, no later than 4:00 p.m. on the third business day after receipt of the written response from the MTC SAFE Section Director. The MTC SAFE Executive Director's decision will be the final agency decision.

Authorization to award an agreement to a particular Proposer by MTC SAFE shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the MTC SAFE Section Director or, if the decision of the MTC SAFE Section Director is appealed, the issuance of the MTC SAFE Executive Director's decision.

D. Public Records

This RFP and any material submitted in response to this RFP are subject to public inspection under the California Public Records Act (Government Code §6250 *et seq.*), unless exempt by law. Other than proprietary information or other information exempt from disclosure by law, the content of proposals submitted to MTC SAFE will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the Proposer believes any proposal content contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer may request that MTC SAFE withhold from disclosure such proprietary materials by marking each page containing proprietary information, including financial information, if any, required to be submitted under Section VII of this RFP, as confidential and shall include the following notice at the front of its proposal:

"The data on the following pages of this proposal, including financial information submitted under Section VII of the RFP marked along the right margin with a vertical line, contain technical or financial information that constitute trade secrets and/or that, if disclosed, would cause substantial injury to the Proposer's competitive position. The Proposer requests that such data be used for review by MTC SAFE only, but understands that exemption from disclosure will be limited by MTC SAFE's obligations under the California Public Records Act. If an agreement is awarded to the Proposer submitting this proposal, MTC SAFE shall have the right to use or disclose the data, unless otherwise provided by law. [List pages]."

Failure to include this notice with relevant page numbers shall render any "confidential/proprietary" markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire proposal confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Proposer may not designate any required proposal forms or the cost proposal as confidential. Consequently, any language purporting to render any proposal forms or the cost proposal as confidential or proprietary will be regarded as ineffective and will be disregarded.**

In the event properly marked data is requested pursuant to the California Public Records Act, the Proposer will be advised of the request. If the proposal requests that MTC SAFE withhold such data from disclosure and MTC SAFE complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend MTC SAFE and hold it harmless from and against all claims, legal proceedings, and resulting damages and costs (including but not limited to attorneys' fees that may be awarded to the party requesting such Proposer information); and pay any and all costs and expenses relating to the withholding of the Proposer information.

If the Proposer does not mark each page containing proprietary information as confidential, does not include the statement described above at the front of its proposal, and does not request that MTC SAFE withhold information marked as confidential and requested under the California Public Records Act, MTC SAFE shall have no obligation to withhold the information from disclosure, and the Proposer shall not have a right to make a claim or maintain any legal action against MTC SAFE or its commissioners, officers, employees or agents in connection with such disclosure.

E. Key Personnel

Key Proposer personnel assigned to the project are expected to remain on the project. Any change in key personnel on the proposed project team is subject to prior written approval of MTC SAFE. Removal of any key personnel identified in the proposal without written consent of the MTC SAFE Project Manager may be considered a material breach of contract.

F. Conflicts Of Interest

By submitting a proposal, the Proposer represents and warrants that no commissioner, officer or employee of MTC SAFE is in any manner interested directly or indirectly in the proposal or in the contract that may be made under it or in any profits expected to arise therefrom, as set forth in California Government Code Section 1090.

The Proposer further warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code Sections 1090 *et seq.* or 87100 *et seq.* during the performance of services under any contract resulting from this RFP and that it will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable.

Whenever MTC SAFE is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the Proposer, and if so, whether any potential bias can be mitigated acceptably by MTC SAFE and the Proposer. After award, the winning Proposer shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the agreement resulting from this and other MTC SAFE solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC SAFE; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other project.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this RFP if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this RFP.

G. Personally Identifiable Information

Not Used.

H. Pre-Award Audit

Not Used.

I. Web-Based Communication

Proposer agrees to submit all communication and required documentation, including but not limited to invoices, requests for contract modifications, etc. to the MTC SAFE Project Manager or his/her designee via a web-based system designated by MTC SAFE to which MTC SAFE will provide system access.

J. Payment and Sub-Contractor Utilization Information

Proposer agrees to submit payment, sub-contractor utilization via a web-based system designated by MTC SAFE to which MTC SAFE will provide system access.

APPENDIX A, SCOPE OF WORK

The selected Contractor shall provide maintenance for voice and data communication equipment for the Bay Area Freeway Service Patrol. Maintenance will consist of installation and removal and swapping and/or repairing of Kenwood radios, WiFi-GPS Devices and other identified fixed equipment.

TASK 1.0 INSTALLATION/DE-INSTALLATION OF RADIOS AND WIFI GPS DEVICES

The selected Contractor shall install Kenwood radios (radios) selected by MTC SAFE, WiFi-GPS Devices and associated cabling and antennas in vehicles at the start of new MTC SAFE tow contracts or when new or additional trucks are introduced into FSP service. The select Contractor shall work collaboratively with the vendor supplying the WiFi GPS Device (currently Los Alamos Technical Associates or LATA) and engage in testing to ensure that the WiFi GPS Device connects properly to the FSP AVL system. Also, the selected Contractor shall remove the radios and WiFi GPS Devices when vehicles leave FSP service or circumstances require it. The selected Contractor shall coordinate and schedule the installation of radios and WiFi-GPS Device in conjunction with the FSP tow contractors, CHP and MTC SAFE Project Manager. The selected Contractor shall work collaboratively with the FSP contractors that operate and own the tow vehicles, accommodating them within reason and communicating with the MTC SAFE Project Manager regarding any disputes concerning in-vehicle device configuration and (de)installation. The selected Contractor shall travel to the various tow contractor locations (see *Appendix A-1, Freeway Service Patrol Contractors*, for a list of contractor locations) for all installation, removal and maintenance work. The contractors and locations listed in *Appendix A-1* may change over term of the contract, but locations should generally be within the nine-county Bay Area. If a new tow contractor's main office is located outside of the Bay Area, the tow contractor will be required to coordinate with the selected Contractor for a location within the nine-county Bay Area for vehicle maintenance and installations or removals.

At the commencement of the contract, the selected Contractor shall receive a number of spare radios, WiFi GPS Devices and accessories from MTC SAFE for use under this Task 1.0. The selected Contractor shall maintain a written shared electronic record to track the inventory of radios and WiFi GPS Devices in a manner determined MTC SAFE and alert the MTC SAFE Project Manager by email when the stock of either type of device goes below five (5) working units. Any additional radios and WiFi GPS Devices required for installation will be procured by MTC SAFE under a separate contract and forwarded to the selected Contractor for its use. The selected Contractor shall store radios and Wifi GPS Devices in Contractor's storage facility.

TASK 2.0 RADIO AND WIFI GPS DEVICE EQUIPMENT MAINTENANCE

The selected Contractor shall provide supplies and services essential to the normal day-to-day operations of the FSP voice and data communications systems. A description of these systems is attached hereto as *Appendix A-2, Radio (Voice) and WiFi GPS Devices (Data) System Description*.

Work shall include routine repairs to the radios comprising the Voice Communications System. Routine repairs include but are not limited to such things as replacing or swapping a radio unit, repair to microphone and speakers, repair to brackets, installing new microphone clip, and replacing the antenna. The selected Contractor should keep spare parts with them to avoid making multiple trips to FSP tow contractor sites.

The selected Contractor shall troubleshoot malfunctioning WiFi GPS Devices and associated equipment comprising the Data Communications System in accordance with *Appendix A-3, WiFi GPS DEVICE Hardware Installation Guide*. A malfunctioning WiFi GPS Device unit that cannot be repaired by following the procedures listed in *Appendix A-3*, shall be mailed directly to Los Alamos Technical Associates (LATA) and replaced with a spare WiFi GPS Device unit. **The cost for shipping non-functional Wi-Fi GPS Devices to LATA in Albuquerque, New Mexico or any future domestic locations shall be incorporated in the Contractor's fixed price proposal.**

All in-vehicle equipment shall receive service within **forty-eight hours** following email notification that a problem exists. Notification shall be pursuant to a "Trouble Ticket" form which shall be inputted by the FSP contractor in to the Automatic Vehicle Locator (AVL) website and a notification emailed to the selected Contractor and MTC SAFE.

Service shall be provided at the various contractor locations between 8 am and 5 pm PST, Monday through Friday, contractor-observed holidays excepted.

TASK 3.0 TASK ORDERS

Additional work that is not part of Task 1.0 or Task 2.0 shall be assigned by the MTC SAFE Project Manager on a task order basis.

General Requirements for Notification and Asset Tracking

The selected Contractor shall email the MTC SAFE Project Manager the following information in a standard format after completing a task under this scope of work, in addition to including such information on task invoices:

- The unique IDs (e.g.- serial numbers) of all devices installed, de-installed or serviced
- The date of any service, installation or de-installation
- The city in which any service, installation or de-installation occurred
- The FSP ID number of the tow vehicle housing the equipment as well as the name of the tow contractor owning the vehicle
- The name of the Contractor's employee performing the service, installation or de-installation

APPENDIX A-1
FREEWAY SERVICE PATROL CONTRACTORS, APRIL 2016

<u>TOW COMPANY</u>	<u>CITY</u>
American Tow	Concord
Atlas Towing Services, Inc.	San Francisco, Hayward
B&A Towing	San Francisco
Bill's Towing	Novato
Bob's Towing	Campbell
Campbell's Towing	San Jose
Ken Betts' Towing	Oakland
Lima Tow	Santa Clara
Myers Towing Services	Hayward, Tracy
Palace Garage	San Leandro
Redhill Towing & Autobody	San Rafael
Roadrunner Tow	Fairfield
Yarbrough Bros. Towing	Santa Rosa

APPENDIX A-2

RADIO (VOICE) AND WIFI GPS DEVICE (DATA) SYSTEM DESCRIPTION

Voice Communications System

The most common in-vehicle radio transceiver in the tow and CHP vehicles is the Kenwood 8180K but there are also some dual digital-analog NX820 and older model Kenwood analog radios. These transceivers operate in the T-band (490-512 MHz) over six mountain top repeaters. Three of the repeaters, Big Rock, Diablo, and Vacaville, send analog messages directly to the CHP Golden Gate Communications Center (GGCC) in Vallejo. The other two, Monument and San Bruno, send messages to the California State Automobile Association Facility in Hayward where they are then sent via three SBC analog leased lines to the GGCC. At GGCC, the analog messages are routed to an AVTEC Central Console that allows the FSP Dispatchers to communicate with either tow operators or CHP supervisors.

These photos show the voice communications systems in the tow trucks and at GGCC.

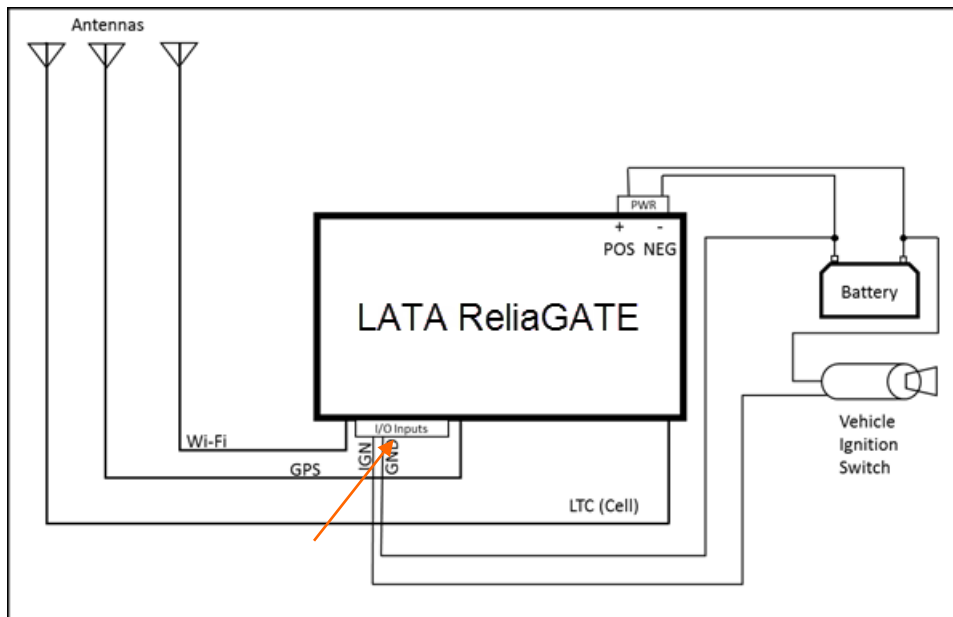


Data Communications System

The in-vehicle data equipment consist of the LATA Control Module or LCM (the name for the current hardware set generically referred to elsewhere in the document as the WiFi-GPS Unit), the data/GPS antennae and associated cables for power, ignition and cellular data. The ReliaGate 50-21 from Eurotech, a ruggedized edge computer, is the core component of the LCM.

These photos show the data communications systems in the tow trucks and at GGCC.

LCM Vehicle Schematic Diagram



APPENDIX A-3
WIFI GPS DEVICE HARDWARE INSTALLATION GUIDE

Document is available for download on the MTC SAFE procurement page at
<http://procurements.mtc.ca.gov/>.

APPENDIX B PROPOSAL CALCULATION WORKSHEET

Please submit your price proposal on this worksheet. Prices proposed shall be for accomplishing the work specified in *Appendix A, Scope of Work*, and shall include all labor, materials, equipment, storage fees and all applicable surcharges including, but not limited to, taxes, overhead, and profit. Prices proposed shall be effective for the period of July 30, 2016 through June 30, 2019.

TASK 1.0 INSTALLATION /REMOVAL OF RADIOS & WIFI GPS DEVICE

The selected Contractor will be paid for Task 1.0 on a fixed price per unit based on the actual numbers of installations and removals, billable monthly.

ITEM	PRICE PER UNIT	ESTIMATED QUANTITY	PRICE
Radio Installation		90	\$
WiFi GPS Device Installation		125	\$
Radio Removal		100	\$
WiFi GPS Device Removal		100	\$
Total Price Task 1.0			\$

Note: The quantities specified for installations and removals are estimates only and may be subject to change.

TASK 2.0 RADIO AND EQUIPMENT MAINTENANCE

The selected Contractor will be paid for Task 2.0 on a fixed price for each WiFi GPS Device problem resolved, regardless of number of trips made to the FSP tow contractor site. The Contractor should bill MTC SAFE on a monthly basis for providing services under this task.

ITEM	PRICE PER UNIT	ESTIMATED QUANTITY	PRICE
Radio Routine Maintenance		135	\$
WiFi GPS Device Routine		135	\$
Total Price Task 2.0			\$

Note: The quantities specified for units requiring routine repair/maintenance are estimates only and may be subject to change.

TASK 3.0 TASK ORDERS

Task orders will be compensated as a fixed price contract on the basis of satisfactory completion of deliverables or on a time and materials basis based on the hourly rates listed below.

PERSONNEL LIST	POSITION	HOURLY RATE

APPENDIX B-1
CONTRACTOR’S REFERENCE FORM

Name of Bidding Company
Representative Name & Title
Phone Number

Please provide three (3) separate references of clients with contracts of \$50,000 or more in the last three (3) years. It is the Contractor’s responsibility to provide reliable and responsive references. Only the three (3) references listed below will be contacted; additional references will not be considered.

The following information is required for each reference given (additional sheets may be used if necessary):

1.

Client’s Name

Contact Person

Address

City & Zip Code

Phone Number & Email

Type of Work Performed

Contract Amount \$

2.

Client’s Name

Contact Person

Address

City & Zip Code

Phone Number & Email

Type of Work Performed

Contract Amount \$

3.

Client’s Name

Contact Person

Address

City & Zip Code

Phone Number & Email

Type of Work Performed

Contract Amount \$

APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

MTC SAFE’s commissioners include:

Alicia C. Aguirre	Federal D. Glover	Julie Pierce
Tom Azumbrado	Scott Haggerty	Libby Schaaf
Jason Baker	Anne W. Halsted	Bijan Sartipi
Tom Bates	Steve Kinsey	James P. Spering
David Campos	Sam Liccardo	Adrienne J. Tissier
Dave Cortese	Mark Luce	Scott Wiener
Dorene M. Giacomini	Jake Mackenzie	Amy Rein Worth

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC SAFE commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

☐ YES ☐ NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC SAFE commissioners in the three months following the award of the contract?

☐ YES ☐ NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude MTC SAFE from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

APPENDIX D, MTC SAFE STANDARD CONTRACTOR CONTRACT

PROFESSIONAL SERVICES AGREEMENT

between

METROPOLITAN TRANSPORTATION COMMISSION
SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

and

NAME OF CONTRACTOR

for

FREEWAY SERVICE PATROL IN-VEHICLE MAINTENANCE FOR VOICE & DATA
COMMUNICATION EQUIPMENT

FISCAL YEARS 2016-2017 to 2018-2019

PROFESSIONAL SERVICES AGREEMENT
Between
METROPOLITAN TRANSPORTATION COMMISSION
SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS
And **INSERT NAME OF CONTRACTOR**
For IN-VEHICLE MAINTENANCE FOR VOICE & DATA
COMMUNICATION EQUIPMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the **xx** day of **Month**, 20____, by and between the Metropolitan Transportation Commission Service Authority for Freeways and Expressways (herein called “MTC SAFE”), a local public agency established pursuant to Streets and Highways Code § 2550 *et seq.*, (herein called “CONTRACTOR”, a **partnership**, _____[state of incorporation] corporation/ nonprofit corporation/joint venture organized under the laws of the State of _____).

RECITALS

WHEREAS, MTC SAFE intends to engage a Contractor to obtain in-vehicle data and radio installation/deinstallation and maintenance services for the Bay Area Freeway Service Patrol (herein called the “Project”); and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers and employees of MTC SAFE; and

WHEREAS, the parties hereto now wish to enter into this Agreement pursuant to which CONTRACTOR will render professional services in connection with the Project as hereinafter provided;

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF SERVICES

CONTRACTOR’s services are described in Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. CONTRACTOR agrees to perform or secure the performance of all specified services within the maximum payment specified in Article 3, subject to the prior written approval of a work plan by Robert Rich, (herein called “MTC SAFE Project Manager”). The MTC SAFE Project Manager is responsible for communication with CONTRACTOR and the administration of this Agreement. MTC SAFE’s Executive Director or designated representative may substitute a new MTC SAFE Project Manager by written notice to CONTRACTOR.

CONTRACTOR's point of contact and the individual authorized to communicate to MTC SAFE on behalf of CONTRACTOR is **INSERT NAME OF CONTRACTOR's PROJECT MANAGER** ("CONTRACTOR Project Manager"). A change in the CONTRACTOR Project Manager requires MTC SAFE's prior written approval.

In the performance of its services, CONTRACTOR represents that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and CONTRACTOR represents that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing.

1.1 PROGRESS REPORTS

CONTRACTOR shall provide MTC SAFE with monthly progress reports according to the schedule and form approved by the MTC SAFE Project Manager.

1.2 SUBMISSION OF CONTRACT DOCUMENTS

To the extent requested by the MTC SAFE Project Manager, CONTRACTOR shall submit communication and required documentation, including but not limited to invoices, requests for contract modifications, and information on payments received and made to subconsultants, subconsultant utilization, and if applicable, certified payrolls, to the MTC SAFE Project Manager or his or her designee via one or more web-based systems designated by MTC SAFE to which MTC SAFE will provide CONTRACTOR with system access. MTC SAFE may withhold payment of invoices pending receipt of such communications and required documentation via the applicable web-based system.

2. PERIOD OF PERFORMANCE

CONTRACTOR's services hereunder shall commence on or after _____, 20__, and shall be completed no later than _____, 20__, unless extended by a duly executed amendment or earlier terminated, as hereinafter provided. CONTRACTOR's services for Task 1.0 and 2.0 shall be performed in accordance with the schedule included in Attachment B, Project Schedule, attached hereto and incorporated herein by this reference. For Task 3.0, CONTRACTOR's services shall be performed in accordance with the schedule included in each signed Task Order.

3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, MTC SAFE will pay CONTRACTOR for its services as described in Attachment A, Scope of Work, a total amount, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors' costs (including mark-up), travel, equipment, materials and supplies, expenses and any fixed fee, not to exceed [**SPELL OUT AMOUNT IN WHOLE DOLLARS (\$_____)**] ("Maximum

Payment"). MTC SAFE shall make payments to CONTRACTOR in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

All invoices shall be submitted electronically via email to MTC SAFE at acctpay@mtc.ca.gov or in writing to:

Attention: Accounting Section
Metropolitan Transportation Commission
Service Authority for Freeways and Expressways
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105
E-mail: rrich@mtc.ca.gov

Payment shall be made by MTC SAFE within thirty (30) days of receipt of an acceptable invoice, approved by the MTC SAFE Project Manager or a designated representative.

4. KEY PERSONNEL

The key personnel to be assigned to this work by CONTRACTOR and, if applicable, their hourly rates and the estimated hours to be supplied by each are set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference. Substitution of any of the personnel named in Attachment D or a decrease in the hours provided to the project by such personnel of more than 10% requires the prior written approval of the MTC SAFE Project Manager or a designee. CONTRACTOR shall maintain records documenting compliance with this Article, and such records shall be subject to the audit requirements of Article 15. CONTRACTOR agrees that all personnel assigned to this work will be professionally qualified for the assignment to be undertaken. MTC SAFE reserves the right to direct removal of any individual, including key personnel, assigned to this work.

5. AMENDMENTS

MTC SAFE reserves the right to request changes in the services to be performed by CONTRACTOR. All such changes shall be incorporated in written amendments that specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and CONTRACTOR and specifically identified as amendments to the Agreement. The MTC SAFE Project Manager is not a designated representative, for purposes of approving an amendment.

6. TERMINATION

A. Termination for Convenience. MTC SAFE may terminate this Agreement for convenience, in whole or in part, at any time by written notice to CONTRACTOR. Upon receipt of notice of termination, CONTRACTOR shall stop work under this Agreement immediately, to the extent provided in the notice of termination, and shall promptly submit its termination claim to MTC SAFE. CONTRACTOR shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination and a reasonable profit not to exceed 3%, plus reasonable termination costs, not to exceed the amount payable for such deliverables. For terminated deliverables-based Task Orders, CONTRACTOR shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination and a reasonable profit not to exceed 3%, plus reasonable termination costs, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONTRACTOR shall be paid for hours worked, plus authorized expenses and reasonable termination costs, not to exceed the maximum amount payable under the terminated Task Order. If CONTRACTOR has any property in its possession belonging to MTC SAFE, CONTRACTOR will account for the same, and dispose of it in the manner MTC SAFE directs. Except as provided above, MTC SAFE shall not in any manner be liable for CONTRACTOR's actual or projected lost profits had CONTRACTOR completed the services required by this Agreement.

B. Termination for Default. If CONTRACTOR does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if CONTRACTOR fails to comply with any other material provision of the Agreement, MTC SAFE may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on CONTRACTOR, setting forth the manner in which CONTRACTOR is in default. If CONTRACTOR does not cure the breach or describe to MTC SAFE's satisfaction a plan for curing the breach within the fifteen (15) day period, MTC SAFE may terminate the Agreement for default. In the event of such termination for default, CONTRACTOR will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: CONTRACTOR shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. For terminated deliverables-based Task Orders, CONTRACTOR shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONTRACTOR shall be paid for hours worked, plus authorized expenses, not to exceed the maximum payable under the terminated Task Order. Such reimbursement will be offset by any costs incurred by MTC SAFE to complete work required under the Agreement. In no event shall MTC SAFE be required to reimburse CONTRACTOR for any costs incurred for work causing or contributing to the default. If CONTRACTOR has any property in its possession belonging to MTC SAFE, CONTRACTOR will account for the same, and dispose of it in the

manner MTC SAFE directs. MTC SAFE shall not in any manner be liable for CONTRACTOR's actual or projected lost profits had CONTRACTOR completed the services required by this Agreement.

C. If it is determined by MTC SAFE that CONTRACTOR's failure to perform resulted from unforeseeable causes beyond the control of CONTRACTOR, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of CONTRACTOR, MTC SAFE, after setting up a new delivery or performance schedule, may allow CONTRACTOR to continue work, or treat the termination as a termination for convenience.

7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS

CONTRACTOR shall, at its own expense, obtain and maintain in effect at all times for the duration of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All policies will be issued by insurers acceptable to MTC SAFE, generally with a Best's Rating of A- or better with a Financial Size Category of VIII or better.

8. INDEPENDENT CONTRACTOR

CONTRACTOR is an independent contractor and not an employee or agent of MTC SAFE and has no authority to contract or enter into any agreement in the name of MTC SAFE. CONTRACTOR has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by CONTRACTOR who are assisting in the performance of services under this Agreement. CONTRACTOR shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONTRACTOR shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

9. INDEMNIFICATION

To the maximum extent permitted by law, CONTRACTOR shall indemnify, keep and hold harmless MTC SAFE and those entities (if any) identified as additional insureds in Attachment E, Insurance and Financial Security (Bond) Provisions, and their commissioners, directors, officers, agents, and employees ("MTC SAFE Indemnified Parties") against any and all demands, claims, suits or actions arising out of any of the following:

A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, caused by any breach of the Agreement or negligent act

or omission or willful misconduct of CONTRACTOR or its officers, employees, subcontractors or agents or any of them, arising from, under or in connection with this Agreement; or

B. Any allegation that materials or services provided by CONTRACTOR under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

CONTRACTOR further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the MTC SAFE Indemnified Parties, CONTRACTOR shall, at its expense, satisfy and discharge the same.

The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

10. DATA TO BE FURNISHED BY MTC SAFE

All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials ("MTC SAFE Data") made available to CONTRACTOR by MTC SAFE for use by CONTRACTOR in the performance of its services under this Agreement shall remain the property of MTC SAFE and shall be returned to MTC SAFE at the completion or termination of this Agreement. No license to such MTC SAFE Data, outside of the Scope of Work of the Project, is conferred or implied by CONTRACTOR's use or possession of such MTC SAFE Data. Any updates, revisions, additions or enhancements to such MTC SAFE Data made by CONTRACTOR in the context of the Project shall be the property of MTC SAFE and subject to the provisions of Article 11.

11. OWNERSHIP OF WORK PRODUCTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products ("Work Products") prepared or assembled and furnished to MTC SAFE by CONTRACTOR or its subcontractors pursuant to this Agreement shall be and are the property of MTC SAFE. MTC SAFE shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of CONTRACTOR or in the hands of any Subcontractor upon completion or termination of the work shall be immediately delivered to MTC SAFE. CONTRACTOR hereby assigns to MTC SAFE ownership of any and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other

intellectual property or proprietary rights in the Work Product. CONTRACTOR also agrees to execute all papers necessary for MTC SAFE to perfect its ownership of the rights in the Work Product.

Notwithstanding the above, "Work Products" are not intended nor shall they be construed to include CONTRACTOR'S pre-existing intellectual property secured, developed, written, or produced by CONTRACTOR prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; CONTRACTOR shall retain all right, title and interest in any such pre-existing intellectual property.

CONTRACTOR shall be responsible for the preservation of any and all such Work Products prior to transmittal to MTC SAFE, and CONTRACTOR shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to MTC SAFE.

CONTRACTOR represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

12. SUBCONTRACTS

[FOR AGREEMENTS WITH SUBCONTRACTORS AT OUTSET]

A. Subcontractors approved by MTC SAFE for subcontract work under this Agreement are listed in Attachment G, Subcontractor List, attached hereto and incorporated herein by this reference. Any subcontractors must be engaged under written contract with CONTRACTOR with provisions allowing CONTRACTOR to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a Subcontractor to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONTRACTOR. Any substitution of subcontractors listed in Attachment G must be approved in writing by MTC SAFE's Project Manager in advance of assigning work to a substitute Subcontractor.

[FOR AGREEMENTS WITH NO SUBCONTRACTORS AT OUTSET]

A. No subcontractors are currently approved by MTC SAFE for work under this Agreement. In advance of the assignment of any work to a subcontractor, such subcontractor must be approved in writing by the MTC SAFE Project Manager and engaged under written contract with CONTRACTOR with provisions allowing CONTRACTOR to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a Subcontractor to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONTRACTOR.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MTC SAFE and any subcontractors, and no subcontract shall relieve CONTRACTOR of his/her responsibilities and obligations hereunder. CONTRACTOR agrees to be as fully responsible to MTC

SAFE for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONTRACTOR. CONTRACTOR's obligation to pay its subcontractors is an independent obligation from MTC SAFE's obligation to make payments to CONTRACTOR.

C. Applicable provisions of this Agreement shall be included in any subcontract or Subcontractor agreement in excess of \$25,000 entered into under of this Agreement.

13. ASSIGNMENT OF AGREEMENT

CONTRACTOR shall not assign this Agreement, or any part hereof without prior express written consent of the MTC SAFE Project Manager or a designated representative, and any attempt thereat shall be void and unenforceable.

14. RECORDS

CONTRACTOR agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. CONTRACTOR further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer.

15. AUDITS

CONTRACTOR shall permit MTC SAFE and MTC SAFE's authorized representatives to have access to CONTRACTOR's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. CONTRACTOR shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

CONTRACTOR further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the Subcontractor agrees that MTC SAFE or any of MTC SAFE's duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such Subcontractor for the term specified above.

16. NOTICES

Except for invoices submitted by CONTRACTOR pursuant to Article 3, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To MTC SAFE: Attention: Robert Rich
Metropolitan Transportation Commission
Service Authority for Freeways and Expressways
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105
E-mail: rrich@mtc.ca.gov

To CONTRACTOR: Attention: **Insert Name of Appropriate Person**
Contractor's name
Contractor's address
Contractor's address
Email: X
Fax: X

17. SOLICITATION OF CONTRACT

CONTRACTOR warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for CONTRACTOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MTC SAFE shall have the right to terminate the Agreement without liability or, at its discretion, the right to deduct from CONTRACTOR's maximum payment the full amount of such fee, commission, percentage, brokerage fee, gift or contingent consideration.

18. PROHIBITED INTERESTS

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree or have the potential of conflicting with the performance of services required under the Agreement or the impartial rendering of assistance or advice to MTC SAFE. CONTRACTOR further covenants that in the performance of the Agreement no person having any such interest shall be employed.

No member, officer, employee or agent of MTC SAFE, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, CONTRACTOR further covenants that it has made a complete disclosure to MTC SAFE of all facts of which CONTRACTOR is aware upon due inquiry bearing upon any possible interest, direct or

indirect, that it believes any member, officer, agent or employee of MTC SAFE (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC SAFE.

18.1 ORGANIZATIONAL CONFLICTS OF INTEREST

CONTRACTOR shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC SAFE; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONTRACTOR shall not engage the services of any Subcontractor or independent contractor on any work related to this Agreement if the Subcontractor or independent contractor, or any employee of the Subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONTRACTOR becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONTRACTOR shall immediately provide MTC SAFE with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONTRACTOR's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC SAFE becomes aware of an organizational conflict of interest in connection with CONTRACTOR's performance of the work hereunder, MTC SAFE shall similarly notify CONTRACTOR. In the event a conflict is presented, whether disclosed by CONTRACTOR or discovered by MTC SAFE, MTC SAFE will consider the conflict presented and any alternatives proposed and meet with CONTRACTOR to determine an appropriate course of action. MTC SAFE's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject CONTRACTOR to damages incurred by MTC SAFE in addressing organizational conflicts that arise out of work performed by CONTRACTOR, or to termination of this Agreement for breach.

19. LAWS AND REGULATIONS

CONTRACTOR shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of any such government, including but not limited to MTC SAFE, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations and procedural requirements that are imposed on MTC SAFE as a recipient of federal or state funds are hereby in turn imposed on CONTRACTOR.

20. CLAIMS OR DISPUTES

CONTRACTOR shall be solely responsible for providing timely written notice to MTC SAFE of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is MTC SAFE's intent to investigate and attempt to resolve any CONTRACTOR claims before CONTRACTOR has performed any disputed work. Therefore, CONTRACTOR's failure to provide timely notice shall constitute a waiver of CONTRACTOR's claims for additional compensation and/or time.

CONTRACTOR shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by MTC SAFE, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given MTC SAFE due written notice of a potential claim. The potential claim shall set forth the reasons for which CONTRACTOR believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to MTC SAFE prior to the time that CONTRACTOR has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, CONTRACTOR shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC SAFE, and shall be governed by all applicable provisions of the Agreement. CONTRACTOR shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached that resolves CONTRACTOR's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to CONTRACTOR's claim, they may choose to pursue dispute resolution pursuant to Article 24, DISPUTE RESOLUTION, or MTC SAFE may terminate the Agreement.

21. REMEDIES FOR BREACH

In the event CONTRACTOR fails to comply with the requirements of the Agreement in any way, MTC SAFE reserves the right to implement administrative remedies that may include, but are not limited

to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MTC SAFE or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

22. TEMPORARY SUSPENSION OF WORK

MTC SAFE, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as MTC SAFE may deem necessary. The suspension may be due to the failure on the part of CONTRACTOR to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of CONTRACTOR. CONTRACTOR shall comply immediately with the written order of MTC SAFE to suspend the work wholly or in part. The suspended work shall be resumed when CONTRACTOR is provided with written direction from MTC SAFE to resume the work.

If the suspension is due to CONTRACTOR's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of CONTRACTOR, all costs shall be at CONTRACTOR's expense and no schedule extensions will be provided by MTC SAFE.

In the event of a suspension of the work, CONTRACTOR shall not be relieved of CONTRACTOR's responsibilities under this Agreement, except the obligations to perform the work that MTC SAFE has specifically directed CONTRACTOR to suspend under this section.

If the suspension is not the responsibility of CONTRACTOR, suspension of all or any portion of the work under this Section may entitle CONTRACTOR to compensation and/or schedule extensions subject to the Agreement requirements.

23. WARRANTY OF SERVICES

A. In the performance of its services, CONTRACTOR represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of Contractors with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing.

B. In the event that any services provided by CONTRACTOR hereunder are deficient because of CONTRACTOR's or a subcontractor's failure to perform said services in accordance with the warranty

standards set forth above, MTC SAFE shall report such deficiencies in writing to CONTRACTOR within a reasonable time. MTC SAFE thereafter shall have:

1. The right to have CONTRACTOR re-perform such services at CONTRACTOR's expense; or
2. The right to have such services done by others and the costs thereof charged to and collected from CONTRACTOR if within 30 days after written notice to CONTRACTOR requiring such re-performance, CONTRACTOR fails to give satisfactory evidence to MTC SAFE that it has undertaken said re-performance; or
3. The right to terminate the Agreement for default.

CONTRACTOR shall be responsible for all errors and omissions and is expected to pay for all deficient work as a result of errors and omissions.

24. DISPUTE RESOLUTION

A. Informal Resolution of Disputes. CONTRACTOR and MTC SAFE shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that MTC SAFE provide a written determination as to the proposed resolution of the dispute. Within twenty-one (21) calendar days of the request, the MTC SAFE Project Manager shall provide a written determination as to the dispute, including the basis for his or her decision. Upon CONTRACTOR's written acceptance of the MTC SAFE Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, MTC SAFE may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the MTC SAFE Project Manager's determination.

If the MTC SAFE Project Manager's determination is not accepted by CONTRACTOR, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty (30) calendar days of commencement of senior management negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between MTC SAFE and CONTRACTOR that cannot be resolved through the informal efforts described above, may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or

Federal court of competent jurisdiction. CONTRACTOR must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. CONTRACTOR shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC SAFE, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or termination of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

25. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

26. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

27. PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

28. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

30. ENTIRE AGREEMENT; MODIFICATION

This Agreement, including any attachments, constitutes the complete agreement between the parties and supersedes any prior written or oral communications. CONTRACTOR represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both CONTRACTOR and MTC SAFE. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION
COMMISSION SERVICE AUTHORITY FOR
FREEWAYS AND EXPRESSWAYS

NAME OF CONTRACTOR

Steve Heminger, Executive Director

Insert Appropriate Name, Title

ATTACHMENT A

Scope Of Work

Outline of Services

The services to be performed by CONTRACTOR shall consist of services requested by the Project Manager or a designated representative including, but not limited to, the following:

- 1.
 - 2.
- ETC.

MTC SAFE may request additional services on an as-needed basis. All such services shall be authorized by Task Order, initiated and developed according to the detailed task order process described in Attachment A-1, Task Order Process, attached hereto and incorporated herein by this reference. Task Orders shall include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subcontractor participation (if any), in a completed form as shown in Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference.

ATTACHMENT A-1

TASK ORDER PROCESS

Detailed Task Order Process:

Task Orders will be numbered sequentially. The period of performance shall be as set forth in the individual Task Order. The process for developing, signing and tracking task orders is summarized as follows:

Step 1 – The MTC SAFE Project Manager (“MTC SAFE PM”) prepares a draft Task Order to issue to CONTRACTOR. The MTC SAFE PM may solicit feedback from CONTRACTOR to facilitate drafting the Task Order.

Step 2* – CONTRACTOR prepares a proposal in response to the draft Task Order. A draft Task Order, as included in this Agreement as Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference, shall be provided to CONTRACTOR for review and comment.

Step 3* – The MTC SAFE PM reviews CONTRACTOR’s proposal to determine if it meets the objectives of the draft Task Order and if CONTRACTOR’s proposed costs are reasonable. The MTC SAFE PM may solicit early feedback from the MTC SAFE Operations Director at this time, if necessary. Any changes to the draft Task Order deemed appropriate by MTC SAFE shall be incorporated in a draft Final Task Order.

Step 4* – The MTC SAFE PM forwards the draft Final Task Order to the MTC SAFE Contract Administrator for review and approval. Once approved, the MTC SAFE PM forwards two copies of the Task Order to the MTC SAFE Operations Director, for review and approval. The MTC SAFE MTC SAFE Operations Director signs both copies of a Final Task Order to signify approval and returns them to the MTC SAFE PM.

Step 5 – The MTC SAFE PM sends both copies of the signed Final Task Order to CONTRACTOR, who signs both copies and returns one to the MTC SAFE PM.

Step 6 – The MTC SAFE PM sends one copy of the fully executed Task Order to the MTC SAFE or MTC SAFE Task Lead who initiates work, and sends another copy to MTC SAFE Finance to encumber funds against the Task Order. The MTC SAFE PM keeps the original fully-executed Task Order for the official project record.

Step 7 – Any services added to the Agreement by a Task Order shall be subject to all applicable conditions of the Agreement. Revisions to Task Orders shall require written approval by both the MTC SAFE Operations Director and CONTRACTOR. Revisions to Task Orders shall require written approval by both the MTC SAFE Operations Director and CONTRACTOR.

Step 8 – The MTC SAFE PM is responsible for overseeing the successful conclusion of the Task Order, and will manage the progress of the work, track invoices against the Task Order budget, and track milestone completion against the Task Order schedule.

Step 9 – Once the MTC SAFE PM determines the Task Order is complete, the MTC SAFE PM will send written notification to CONTRACTOR that the Task Order is complete and that all associated invoices are due to MTC SAFE within 30 days. Any balance of budget is made available to spend on future task orders at the MTC SAFE PM's discretion.

Step 10 – The MTC SAFE PM will annually assess the need for a Contract audit.

**The MTC SAFE Project Manager may revise the Task Order and/or CONTRACTOR may be asked to revise the proposal based on feedback received during Steps 2 through 4.*

ATTACHMENT A-2
Task Order Form

1. Task Order No. (include FY)	
2. Title of Task:	
3. MTC SAFE Task Lead (if different from MTC SAFE Project Manager):	
4. Description of work:	<i>Summarize key task expectations. For more information, see attached <u>Task Order Budget and Schedule</u> and <u>Detailed Description of Work</u> (attached).</i>
5. Original Maximum Payment:	
6. Amended Maximum Payment:	<i>Include each amendment to maximum payment, by amendment number, for particular fiscal year.</i>
7. Completion Date:	Date Schedule attached.
8. Payment terms:	<i>Check the one that applies (see below for more information):</i> <input type="checkbox"/> Time and Materials <input type="checkbox"/> Deliverables

9. Payment Terms [*complete A for Task Orders including one or more deliverables-based payments or B for Time and Materials Task Orders.*]

A. Deliverables-based.

	<u>Deliverable</u>	<u>Total Cost*</u>
1.		\$1
2.		\$1
3.		\$1
4.		\$1
5.		\$1
6.		\$1
7.		\$1
	Total:	\$7.00

*Due upon satisfactory completion as determined by the MTC SAFE Project Manager.

B. Time and Materials*Specify hourly rate for applicable personnel and include estimate of expenses.*

	<u>Personnel/Expense</u>	<u>Duties</u>	<u>Rate</u>	<u>Est. Hours</u>	<u>Total Cost</u>
1.			\$		\$1
2.			\$		\$1
3.			\$		\$1
4.			\$		\$1
5.			\$		\$1
Total:					\$5.00

<u>Activity</u>	<u>Lead</u>	<u>Estimated Amount Budgeted</u>
		\$1
		\$1
		\$1
		\$1
		\$1
		\$1
TOTAL MAXIMUM PAYMENT		\$6.00

METROPOLITAN TRANSPORTATION
COMMISSION SERVICE AUTHORITY FOR
FREEWAYS AND EXPRESSWAYS

CONTRACTOR

Melanie Crotty, Operations Director
Date:

Insert name and title of authorized individual
Date:

Task Order Schedule

<u>Deliverable/Milestone</u>		<u>Due Date</u>
		Date

Detailed Description of Work

Task Order #: Title

- 1. Description of subtask 1.
Deliverable – deliverable name
- 2. Description of subtask 2.
Deliverable – deliverable name
- 3. Description of subtask 3.
Deliverable – deliverable name
- 4. Etc.

ATTACHMENT B
Project Schedule

Task #	Work to be Performed/Deliverables (#)	Completion Date

ATTACHMENT C

Compensation and Method of Payment

PAYMENT FOR TASKS 1.0 AND 2.0

A. Compensation. CONTRACTOR shall be paid, as full compensation for the satisfactory completion of the work described in Attachment A, Scope of Work, the firm fixed sum of _____ dollars (\$_____), which includes all labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, as well as indirect costs, overhead and profit allowance, subcontractors' costs, travel, equipment, materials and supplies. Any amendments to this Agreement shall be based on the hourly rates set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference. In no event shall the total compensation to be paid CONTRACTOR under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Progress Payments. Payment for CONTRACTOR's services shall be due in the amounts indicated below, upon acceptance by the MTC SAFE Project Manager of the following deliverables or milestones, described in detail in Attachment A, Scope of Work:

Task	<u>Deliverables (#)</u>	<u>Amount Due</u>
1	Do this (#1)	\$1,234
2	Do that (#2)	\$56,789
		0
	Excel is inside Word Tables. Highlight field, hit F9 or Table Formula = Format \$.	\$58,023.00
		highlight #, hit F9

C. Method of Payment. CONTRACTOR shall submit an invoice identifying the project deliverable or milestone for which payment is sought no later than thirty (30) days after MTC SAFE's acceptance of such deliverable/milestone.

PAYMENT FOR TASK 3.0

A. Compensation. CONTRACTOR shall be compensated for its work as specified in signed Task Orders. All Task Orders shall be developed according to the process established in Attachment A-1,

Task Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-2, Task Order Form.

Payment terms may be based on acceptance of agreed-upon deliverables or upon time and materials reimbursement, depending on the requirements of each Task Order. For time and materials-based payment of Task Orders, labor rates in Attachment D, Key Personnel Assignments, shall apply. The hourly rates in Attachment D include all applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies. Said hourly rates shall remain in effect for the term of the Agreement, unless MTC SAFE's prior written authorization is obtained for any changes. In no event shall the total compensation to be paid CONTRACTOR under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Expenses. For time and materials Task Orders, MTC SAFE will reimburse CONTRACTOR for all expenses deemed reasonable and necessary by MTC SAFE incurred by CONTRACTOR in the performance of this Agreement. Such reimbursement shall include travel and personal expenses incurred by employees or agents of all CONSULTANTS in accordance with 48 Code of Federal Regulations Part 31 or Office of Management and Budget Circular A-122, as applicable.

C. Method of Payment. CONTRACTOR shall submit invoices for services rendered no more frequently than on a monthly basis. Invoices shall identify work for which payment is requested by Task Order number (including fiscal year). All invoices will be dated, numbered in serial order, and signed by CONTRACTOR.

For Task Orders authorizing payment on the basis of satisfactory deliverables, CONTRACTOR shall specify each deliverable for which payment is requested, the amount requested, and the total amount paid to date under the Task Order.

For Task Orders authorizing time and materials payment, CONTRACTOR shall submit invoices for services rendered on a monthly basis, covering fees and expenses for a single calendar month. Each invoice shall specify the work performed, hours worked, and amount due (by personnel), authorized expenses (with receipts for such expenses), the total amount claimed under the invoice and the amount paid to date under the Task Order.

ATTACHMENT D
Key Personnel Assignments

	<u>Name</u>	<u>Rate/hour</u>	<u>Est. hours</u>	<u>Task Description</u>
1.		\$xx		
2.				
3.				
4.				
5.				
6.				
7.				
8.				

* Applicable to development of payment provisions in amendments only.

ATTACHMENT E
Insurance and Financial Security (Bond) Provisions

1. INSURANCE

A. Minimum Coverages. The insurance requirements specified in this section shall cover CONTRACTOR's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that CONTRACTOR authorizes to work under this Agreement (hereinafter referred to as "Agents.") CONTRACTOR shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

CONTRACTOR is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, CONTRACTOR shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONTRACTOR's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event CONTRACTOR or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that CONTRACTOR's insurance be primary without right of contribution from MTC SAFE. Prior to beginning work under this contract, CONTRACTOR shall provide MTC SAFE with satisfactory evidence of compliance with the insurance requirements of this section.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONTRACTOR's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE. Such Workers' Compensation & Employer's Liability may be waived, if and only for as long as CONTRACTOR is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the premises and operations, and products and completed operations of CONTRACTOR and CONTRACTOR's officers, agents, and employees and with limits of liability which shall not be less than

\$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, a products/completed operations aggregate liability limit of not less than \$2,000,000 and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

MTC SAFE and those entities listed in Part 3 of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds for ongoing and completed operations. Such insurance shall be primary and non-contributory, and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONTRACTOR's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by CONTRACTOR and CONTRACTOR's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Umbrella Insurance in the amount of \$5,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Property Insurance. Property Insurance covering CONTRACTOR'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of MTC SAFE (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to MTC SAFE, generally with a Best's Rating of A- or better with a Financial Size Category of VIII or better.

C. Self-Insurance. CONTRACTOR's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to MTC SAFE.

D. Deductibles and Retentions. CONTRACTOR shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from MTC SAFE. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that MTC SAFE seeks coverage as an additional insured under any CONTRACTOR insurance policy that contains a deductible or self-insured retention, CONTRACTOR shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONTRACTOR, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONTRACTOR or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a “Claims-Made” (rather than an “occurrence”) basis, then in addition to the coverage requirements above, CONTRACTOR shall:

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- (3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONTRACTOR shall purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONTRACTOR’s personnel, subconsultants, subcontractors, and equipment have been removed from MTC SAFE’s property, and the work or services have been formally accepted. CONTRACTOR must notify MTC SAFE if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, CONTRACTOR shall deliver to MTC SAFE Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONTRACTOR pursuant hereto, including, but not limited to, liability assumed pursuant to Article 9 of this Agreement.

2. FINANCIAL SECURITY (BONDS)

- Not Applicable.

3. ADDITIONAL INSUREDS

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as MTC SAFE Indemnified Parties, pursuant to Article 9 of the Agreement.

- Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE)
- California Highway Patrol (CHP)
- California Department of Transportation (Caltrans)

ATTACHMENT F

Special Conditions Relating to Personally Identifiable Information

Not Used.

ATTACHMENT G
Subcontractor List

	<u>Name/Address of Subcontractor</u>	<u>Amount of Subcontract</u>	<u>Description of Work</u>
1.			
2.			
3.			
4.			
5.			
6.			

APPENDIX D-1, INSURANCE REQUIREMENTS

Minimum Insurance Coverages. Contractor shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under its Agreement with MTC SAFE, placed with insurers Best's Rating of A- or better with a Financial Size Category of VIII or better.

Yes (√)	Please certify by checking the box below that required coverages will be provided within ten (10) business days of MTC SAFE's notice to firm that it wishes to contract with the firm.
—	<u>Workers' Compensation Insurance</u> with Statutory limits, and <u>Employer's Liability Insurance</u> with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONTRACTOR's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE. Such <u>Workers Compensation & Employer's Liability</u> may be waived, if and only for as long as CONTRACTOR is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
—	<p><u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the premises and operations, and products and completed operations of CONTRACTOR and CONTRACTOR's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, a products/completed operations aggregate liability limit of not less than \$2,000,000 and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE.</p> <p>Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.</p> <p>MTC SAFE and CHP and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds for ongoing and completed operations. Such insurance shall be primary and non-contributory, and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONTRACTOR's operations.</p>
—	<u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONTRACTOR and CONTRACTOR's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability that shall not be less than \$1,000,000 combined single limit per accident.
—	<u>Umbrella Insurance</u> in the amount of \$5,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability

	Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.
—	<u>Property Insurance.</u> Property Insurance covering CONTRACTOR'S own business personal property and equipment to be used in performance of its Agreement with MTC SAFE, materials or property to be purchased and/or installed on behalf of MTC SAFE (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE.
<p>CONTRACTOR's obligation to provide the insurance described herein may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to MTC SAFE.</p> <p>Contractor shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from MTC SAFE. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.</p> <p>In the event that MTC SAFE seeks coverage as an additional insured under any Contractor insurance policy that contains a deductible or self-insured retention, Contractor shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Contractor, subconsultant, subcontractor, or any of their employees, officers or directors, even if Contractor or subconsultant is not a named defendant in the lawsuit.</p> <p>If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, Contractor shall:</p> <ol style="list-style-type: none"> 1. Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of its Agreement with MTC SAFE or the beginning of any work under such Agreement; 2. Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and 3. If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, Contractor shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work. <p>All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONTRACTOR's personnel, subcontractors, and equipment have been removed from MTC SAFE's property, and the work or services have been formally accepted. Contractor must notify MTC SAFE if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of its Agreement with MTC SAFE.</p> <p>Prior to commencement of any work hereunder, Contractor shall deliver to MTC SAFE Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make</p>	

reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant hereto, including, but not limited to, liability assumed pursuant to the Indemnification section of its Agreement with MTC SAFE.

By signing below you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within ten (10) business days of MTC SAFE’s notice to firm that it wishes to contract with the firm.

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

NOTE: If you were unable to check “Yes” for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to MTC SAFE’s attention no later than closing date/time for receipt of requests for modifications/exceptions. If such modifications/exceptions are not brought to MTC SAFE’s attention consistent with the provisions of this RFP, compliance with the insurance requirements will be assumed.